

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MARK D. ADAMS,

Plaintiff,

v.

KEN PAXTON, et al.,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Case No. 6:19-cv-565-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Mark D. Adams, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

Plaintiff sued sixty defendants, ranging from the Texas Attorney General to members of the Aryan Brotherhood prison gang, in his wide-ranging complaint. The Magistrate Judge ordered Plaintiff to amend his complaint to have one operative pleading in the case. The Magistrate Judge reviewed Plaintiff's pleadings and divided his claims into eleven separate categories. On December 16, 2020, in a Report analyzing each category under the applicable pleading standards set out by *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), the Magistrate Judge recommended that the lawsuit be dismissed as

frivolous and for failure to state a claim upon which relief may be granted. Docket No. 84. Plaintiff timely objected. Docket No. 87.


Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Plaintiff primarily complains that he cannot obtain evidence to support his claims, that all of his requests for discovery have been denied, that his legal mail was delayed when he was moved to the Estelle Unit in July, that the Aryan Brotherhood was involved in a conspiracy with TDCJ officials (although he offered only conclusory allegations to support this newly raised assertion), that the Court should have appointed counsel because his case is complex, that the taking of his work time without due process was improper, and that Docket Nos. 1 through 79 are evidence supporting his claims.

Having conducted a de novo review of the record in this case and the Magistrate Judge's Report, the Court has determined that the Report of the Magistrate Judge is correct and that Plaintiff's objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 84) as the opinion of the District Court.

It is therefore **ORDERED** that this case is **DISMISSED WITH PREJUDICE** for purposes of proceeding *in forma pauperis* as frivolous and for failure to state a claim against the Defendants Paxton, Mitchell, Moore, Boyd, Gohmert, Livingston, Glassner, Hill, Gastler, White, the Aryan Brotherhood of Texas, Jones, Westbrook, Baldwin, Carrell, Stone, and Masle, and as to the taking of his 80 days of work time credits. Plaintiff's claims concerning his Coryell County conviction and the placement of an escape designator in his record are also **DISMISSED WITH PREJUDICE** until such time as he can show that the Coryell County conviction has been overturned, expunged, or otherwise set aside. Finally, this dismissal is **WITHOUT PREJUDICE** as to all other claims, including Plaintiff's right to seek redress for the confiscation of his property through the administrative processes of TDCJ or the courts of the State of Texas.

So **ORDERED** and **SIGNED** this 23rd day of February, 2021.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE